

# EXHIBIT D

## GANEM - CROSS / DAVID BOIES

1 That's what you told me.

2 **A.** The SWAA control governs the storage of identified data,  
3 and the assertion was that this Firebase IID is identified data  
4 and that SWAA should control it.

5 **Q.** That's what he's proposing here?

6 **A.** Yes.

7 **Q.** But didn't you just tell me that SWAA -- turning SWAA off  
8 didn't stop you from collecting information that was initially  
9 identified and then de-identifying that information? Didn't  
10 you tell me that?

11 **A.** I don't recall putting it that way.

12 **Q.** Okay. Let me just ask you. And while I'm asking you,  
13 maybe somebody at my table will find the transcript from  
14 yesterday, but let me just ask you.

15 When SWAA-off data comes in, the first thing that happens  
16 is a copy of that is made in memory; correct?

17 **A.** Yes.

18 **Q.** And that copy that's made in memory that first comes in  
19 has all of the personal identification information; correct?

20 **A.** Yes.

21 **Q.** Okay. And then what you do is you make another copy and  
22 you de-identify that personal information; correct?

23 **A.** Yes.

24 **Q.** Okay. Now, that, both the first copy that comes in and  
25 the second copy that comes in, is something that you told me

1 before you didn't need user consent for; correct?

2 **A.** The pseudonymous data does not require sWAA consent  
3 because it's not saved against their Google Account.

4 **Q.** And the reason that you don't need consent is because you  
5 say it's not saved in the Google Account; correct?

6 **A.** Yes. That's the purpose of the sWAA control.

7 **Q.** And you say you can just go and save it someplace else;  
8 correct?

9 **A.** Yes.

10 **Q.** Okay. And you don't need user consent for that, you say?

11 **A.** The consent is the one they granted when they created  
12 their Google Account and acknowledged the privacy policy.

13 **Q.** But that assumes that the privacy policy gives that  
14 consent; right?

15 **A.** Yes.

16 **Q.** Okay. Now, you know that you can reidentify, or join, in  
17 the language here, that de-identified information back to a  
18 person. Google can do that; right? You say there are policies  
19 against it, but Google can do it; right?

20 **A.** Google would have to change the way its systems are  
21 designed in order to do it.

22 **Q.** But Google can do that; right?

23 **A.** In theory, if it made those changes.

24 **Q.** Yes. And making those changes is within Google's power;  
25 correct?

## GANEM - CROSS / DAVID BOIES

1     **A.**   Technically.

2     **Q.**   Okay.  And if you get a subpoena asking for that, you're  
3   going to have to comply with that subpoena; correct?

4             **MR. SANTACANA:**  Objection.  Calls for a legal  
5   conclusion.

6             **THE COURT:**  Sustained.

7     **BY MR. DAVID BOIES:**

8     **Q.**   Your understanding is that -- as the CEO of this  
9   Google Analytics and as the corporate representative of Google,  
10   your understanding is that if you got that kind of subpoena,  
11   you'd have to comply with it, and that's one of the joinability  
12   risks that's referred to here; right?

13            **MR. SANTACANA:**  Objection, Your Honor.  I have a 403  
14   objection.  I'd like to --

15            **THE COURT:**  This witness is not going to be able to  
16   answer the degree to which a subpoena requires certain conduct  
17   by this.  So, sustained.

18     **BY MR. DAVID BOIES:**

19     **Q.**   Do you understand that users, if they knew that you had  
20   this de-identified information that could be reidentified, that  
21   they would be concerned that you might do that in response to a  
22   subpoena?  Do you understand that that would be a legitimate  
23   concern on their part?

24     **A.**   On whose part?  Could you repeat that?

25     **Q.**   Users' part, yeah.

**GANEM - REDIRECT / SANTACANA**

1     **A.**    I could imagine so.

2     **Q.**    I mean, for example, if you were a woman in a state that  
3     prohibits abortions, you wouldn't want your information subject  
4     to a possible subpoena; correct?

5             **MR. SANTACANA:**  Objection, Your Honor.

6             **THE COURT:**  Overruled.

7             You can answer that question.

8             **THE WITNESS:**  I can imagine so.

9             **MR. DAVID BOIES:**  No more questions, Your Honor.

10            **MR. SANTACANA:**  Phone in the pocket.

11                             **REDIRECT EXAMINATION**

12     **BY MR. SANTACANA:**

13     **Q.**    Good morning, Mr. Ganem.  How are you doing this morning?

14     **A.**    Good morning.  Doing okay.

15     **Q.**    Almost there.

16             I want to start where Mr. Boies left off, sir, which is on  
17     this subject of users being concerned about subpoenas.

18             Have you, as the head of Google Analytics, ever been asked  
19     to change the way Google's code works in response to a  
20     subpoena?

21     **A.**    No.

22     **Q.**    Have you ever changed the way the system that separates  
23     the data works in order to rejoin the data at the behest of a  
24     government?

25     **A.**    No.